

SECTION 13. This Act takes effect September 1, 2017.

Passed the Senate on April 19, 2017: Yeas 31, Nays 0; passed the House on May 19, 2017: Yeas 144, Nays 0, two present not voting.

Approved June 1, 2017.

Effective September 1, 2017.

**A REQUIREMENT THAT THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY PROVIDE AN EXPEDITED  
PROCEDURE FOR ACTING ON CERTAIN APPLICATIONS  
FOR AN AMENDMENT TO A WATER RIGHT BY CERTAIN  
APPLICANTS THAT USE DESALINATED SEAWATER**

**CHAPTER 429**

S.B. No. 1430

**AN ACT**

relating to a requirement that the Texas Commission on Environmental Quality provide an expedited procedure for acting on certain applications for an amendment to a water right by certain applicants that use desalinated seawater.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 11.122, Water Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

*(b-1) A holder of a water right that begins using desalinated seawater after acquiring the water right has a right to expedited consideration of an application for an amendment to the water right if the amendment:*

*(1) authorizes the applicant to divert water from a diversion point that is different from or in addition to the point or points from which the applicant was authorized to divert water before the requested amendment;*

*(2) authorizes the applicant to divert from the different or additional diversion point an amount of water that is equal to or less than the amount of desalinated seawater used by the applicant;*

*(3) authorizes the applicant to divert from all of the diversion points authorized by the water right an amount of water that is equal to or less than the amount of water the applicant was authorized to divert under the water right before the requested amendment;*

*(4) authorizes the applicant to divert water from all of the diversion points authorized by the water right at a combined rate that is equal to or less than the combined rate at which the applicant was authorized to divert water under the water right before the requested amendment; and*

*(5) does not authorize the water diverted from the different or additional diversion point to be transferred to another river basin.*

*(b-2) The executive director or the commission shall prioritize the technical review of an application that is subject to Subsection (b-1) over the technical review of applications that are not subject to that subsection.*

SECTION 2. Section 2003.047, Government Code, is amended by amending Subsection (e-3) and adding Subsection (e-6) to read as follows:

*(e-3) The deadline specified by Subsection (e-2) or (e-6), as applicable, may be extended:*

*(1) by agreement of the parties with the approval of the administrative law judge;*  
*or*

(2) by the administrative law judge if the judge determines that failure to extend the deadline would unduly deprive a party of due process or another constitutional right.

(e-6) *For a matter pertaining to an application described by Section 11.122(b-1), Water Code, the administrative law judge must complete the proceeding and provide a proposal for decision to the commission not later than the 270th day after the date the matter was referred to the office.*

SECTION 3. The changes in law made by this Act apply only to an application for an amendment to a water right that is filed with the Texas Commission on Environmental Quality on or after the effective date of this Act. An application filed with the commission before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2017.

Passed the Senate on April 18, 2017: Yeas 31, Nays 0; passed the House on May 21, 2017: Yeas 141, Nays 0, one present not voting.

Approved June 1, 2017.

Effective September 1, 2017.

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## CONTESTED CASES CONDUCTED UNDER THE ADMINISTRATIVE PROCEDURE ACT

### CHAPTER 430

S.B. No. 1446

#### AN ACT

**relating to contested cases conducted under the Administrative Procedure Act.**

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Sections 2001.052(a) and (b), Government Code, are amended to read as follows:

(a) Notice of a hearing in a contested case must include:

- (1) a statement of the time, place, and nature of the hearing;
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) a reference to the particular sections of the statutes and rules involved; and
- (4) *either:*

(A) a short, plain statement of the factual matters asserted; or

(B) *an attachment that incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.*

(b) If a state agency or other party is unable to state factual matters in detail at the time notice under this section is served, an initial notice may be limited to a statement of the issues involved. On timely written application, a more definite and detailed statement of the facts shall be furnished not less than seven days before the date set for the hearing. In a proceeding in which the state agency has the burden of proof, a state agency that intends to rely on a section of a statute or rule not previously referenced in the notice of hearing must amend the notice, *or the complaint or petition, if applicable*, to refer to the section of the statute or rule not later than the seventh day before the date set for the hearing. This subsection does not prohibit the state agency from filing an amendment during the hearing of a contested case provided the opposing party is granted a continuance of at least seven days to prepare its case on request of the opposing party.